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6 *Attorneys for the United States*

7 **UNITED STATES DISTRICT COURT**  
8 **DISTRICT OF NEVADA**

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 JUAN ZUBIAS-GAMEZ,  
a.k.a. "Juan Zubias-Gamez,"

13 Defendant.

Case No.: 2:20-mj-695-BNW

**Stipulation to Extend Deadlines to  
Conduct Preliminary Hearing and  
File Indictment (Fifth Request)**

14 IT IS HEREBY STIPULATED AND AGREED, by and between Nicholas A.  
15 Trutanich, United States Attorney, and Kimberly M. Frayn, Assistant United States  
16 Attorney, counsel for the United States of America, and, Abel M. Yanez, Esq., counsel for  
17 Defendant Juan Zubias-Gamez, that the Court continue the preliminary hearing currently  
18 scheduled in this case for January 11, 2021, at 8:30 a.m., (ECF No. 23), to on or after  
19 February 5, 2021. This request requires that the Court extend two deadlines: (1) that a  
20 preliminary hearing be conducted within 14 days of a detained defendant's initial  
21 appearance, *see* Fed. R. Crim. P. 5.1(c); and (2) that an information or indictment be filed  
22 within 30 days of a defendant's arrest, *see* 18 U.S.C. § 3161(b).

23 This stipulation is entered into for the following reasons:  
24

1       1. The United States Attorney's Office has developed an early disposition  
2 program for immigration cases, authorized by the Attorney General pursuant to the  
3 PROTECT ACT of 2003, Pub. L. 108-21.

4       2. The early disposition program for immigration cases is designed to: (1) reduce  
5 the number of hearings required in order to dispose of a criminal case; (2) avoid having  
6 more cases added to the court's trial calendar, while still discharging the government's duty  
7 to prosecute federal crimes; (3) reduce the amount of time between complaint and  
8 sentencing; and (4) avoid adding significant time to the grand jury calendar to seek  
9 indictments in immigration cases, which in turn reduces court costs.

10      3. The government has made a plea offer in this case that requires defendant to  
11 waive specific rights and hearings in exchange for "fast-track" downward departure under  
12 USSG § 5K3.1. This offer will be withdrawn if it is not timely accepted before this matter is  
13 indicted and before a preliminary hearing is held. Typically under the Fast Track, the initial  
14 request is to continue the preliminary hearing for 90 days. However, the Court just recently  
15 terminated FPD's representation and appointed new counsel, Mr. Yanez, for the defendant,  
16 on or about December 17, 2020. ECF No. 24. Mr. Yanez, Esq. and the defendant have  
17 advised undersigned government counsel that they would like more time to consider  
18 whether to accept the government's Fast Track offer and they agree to move the preliminary  
19 hearing out to on or after February 5, 2021.

20      4. Under Federal Rule of Criminal Procedure 5.1(c), the Court "must hold the  
21 preliminary hearing within a reasonable time, but no later than 14 days after the initial  
22 appearance if the defendant is in custody . . ."

23      5. However, under Rule 5.1(d), "[w]ith the defendant's consent and upon a  
24 showing of good cause—taking into account the public interest in the prompt disposition of

1 criminal cases—a magistrate judge may extend the time limits in Rule 5.1(c) one or more  
2 times . . .”

3       6. Furthermore, under the Speedy Trial Act, 18 U.S.C. § 3161(b), “[a]ny  
4 information or indictment charging an individual with the commission of an offense shall be  
5 filed within thirty days from the date on which such individual was arrested or served with a  
6 summons in connection with such charges.”

7       7. Defendant and new defense counsel need additional time to review the  
8 discovery and investigate potential defenses to make an informed decision as to how to  
9 proceed, including whether to accept the fast-track plea agreement.

10      8. Accordingly, the parties jointly request that the Court schedule the  
11 preliminary hearing in this case to on or after February 5, 2021.

12      9. Defendant is in custody and agrees to the extension of the 14-day deadline  
13 imposed by Rule 5.1(c) and waives any right to remedies under Rule 5.1(c) or 18 U.S.C.  
14 § 3161(b), provided that the information or indictment is filed on or before the date ordered  
15 pursuant to this stipulation.

16      10. The parties agree to the extension of that deadline.

17      11. This extension supports the public interest in the prompt disposition of  
18 criminal cases by permitting defendant to consider entering into a plea agreement under the  
19 United States Attorney’s Office’s fast-track program for § 1326 defendants.

20      12. Accordingly, the additional time requested by this stipulation is allowed  
21 under Federal Rule of Criminal Procedure 5.1(d).

22      13. In addition, the parties stipulate and agree that the time between today and  
23 the scheduled preliminary hearing is excluded in computing the time within which the  
24 defendant must be indicted and the trial herein must commence pursuant to the Speedy

1 Trial Act, 18 U.S.C. § 3161(b) and (h)(7)(A), considering the factors under 18 U.S.C.  
2 § 3161(h)(7)(B)(i) and (iv).

3 14. This is the fifth request for an extension of the deadlines by which to conduct  
4 the preliminary hearing and to file an indictment.

5 DATED this 5th day of January, 2021.

6 Respectfully submitted,

7 NICHOLAS A. TRUTANICH  
United States Attorney

8 /s/Abel M. Yanez  
9 Abel M. Yanez, Esq.  
Counsel for Defendant  
10 JUAN ZUMBIAS-GAMEZ

/s/Kimberly M. Frayn  
KIMBERLY M. FRAYN  
Assistant United States Attorney

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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Case No.: 2:20-mj-695-BNW

Plaintiff,

V.

JUAN ZUBIAS-GAMEZ,  
a.k.a. "Juan Zabias-Gamez,"

**[Proposed] Order on Stipulation to Extend Deadlines to Conduct Preliminary Hearing and File Indictment**

## Defendant.

Based on the stipulation of counsel, good cause appearing, and the best interest of justice being served; the time requested by this stipulation being excluded in computing the time within which the defendant must be indicted and the trial herein must commence pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(b) and (h)(7)(A), and Federal Rule of Criminal Procedure 5.1, considering the factors under 18 U.S.C. § 3161(h)(7)(B)(i) and (iv):

IT IS THEREFORE ORDERED that the preliminary hearing currently scheduled on January 11, 2021, at the hour of 8:30 a.m., be vacated and continued to 2/9/2021 at 2:30 PM in LV courtroom 3B.

DATED this 5th day of January 2021.

*Gerbweker*

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HONORABLE BRENDA N. WEKSLER  
UNITED STATES MAGISTRATE JUDGE